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REMARKS

By the foregoing amendment, claims 1, 10 and 20 have been amended. Claims 1-3, 5-13, 15-22 and 24-28 are pending in the application. In view of the foregoing amendments and the remarks urged here, Applicant respectfully requests that the Examiner reconsider and withdraw all outstanding rejections.

35 U.S.C. § 103 Rejections

The Examiner has rejected claims 1-3, 5-13, 15-22 and 24-28 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 20020161476 to Panofsky et al. ("Panofsky") in view of U.S. Patent Application Publication No. 20020174010 to Rice ("Rice").

Applicant has amended independent claims 1, 10 and 20 to more particularly point out and distinctly claim the subject matter regarded as the invention. In particular, claim 1 has been amended to recite that the system includes a display device which emulates the operating system used by the portable computer system by "installing the one or more software programs entirely onto the emulation of the operating system." Claim 10 has been similarly amended to recite that the system includes a display device which emulates the operating system of the portable electronic device by "installing the software program entirely onto the emulation of the operating system." Claim 20 has been amended to recite that the networked device for dispensing software includes a display device for emulating the operating system of the hand held computer system by "installing the software program entirely onto the emulation of the operating system."

The present invention, as recited in amended independent claims 1, 10 and 20, is directed to a networked software and service dispensing vending machine for dispensing software and services to a portable computer system. One of the problems addressed by the present invention is that software programs for portable computer systems are typically small and inexpensive compared to the marketing and distribution costs associated with selling the software programs over the internet or at retail outlets. The system includes a display device which emulates the operating system and environment of the portable computer system for installing and executing the selected software program to test run the selected software program for a potential buyer. Importantly, the entire software program is loaded onto the emulation of

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the operating system so that the potential buyer can interact with the full software program prior to purchase.

By contrast, the Examiner's base reference, Panofsky, is directed to a system for contemporaneous sale of digital music files and transference of the digital music files to a portable digital music player. As Examiner admits, Panofsky fails to disclose the emulation of the operating system of the portable computer system on a display device of the system as is required by all embodiments of the present invention. Additionally, Panofsky fails to recognize or address the problems associated with the high marketing costs associated with the software programs since Panofsky is directed to a subscriber based model for downloading of digital music files.

The shortcomings of the base reference are not overcome by Rice. Rice is directed to a system which allows for secure document delivery between remote parties while retaining file control by the sender for further distribution of the document. The Examiner asserts that the "thin client" mode disclosed by Rice is analogous to the software program running on an emulation of the operating system as required by the present invention. However, Rice teaches that the thin client mode operates as a typically dummy terminal emulator which runs only portions of the executable code at one time (see Rice paragraph 8). By contrast, the present invention requires the entire software program to be installed onto the emulation of the operating system. Unlike the typical "thin client" client server mode where the client is relatively less powerful than the server, the present invention is contemplated in an environment where the display device is not necessarily less powerful than the network server. Additionally, as mentioned above, the software program for the portable computer system is typically small, so the display device can install the entire software program onto the emulation of the operating system.

Therefore, Applicant respectfully submits that a combination of Panofsky and Rice does not teach or suggest every claimed feature of the invention. The prior art reference (or references) must teach or suggest all of the claim limitations. In re Vaeck, 947 F.2d 488 (Fed. Cir. 1991). Since a prima facie case of obviousness has not been set forth, Applicant respectfully submits that amended independent claims 1, 10 and 20 are allowable over the cited references.

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Claims 2-3, 5-9, 11-13, 15-19, 21-22 and 24-28, by their dependency on claims 1, 10 and 20

respectively, are similarly allowable. Early notice to that effect is earnestly solicited.

Conclusion

    All of the stated grounds of rejection have been properly traversed, accommodated, or

rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all

presently outstanding rejections, and that they be withdrawn. The Examiner is invited to

telephone the undersigned representative if an interview might expedite allowance of this

application.

                Respectfully submitted,

                BERRY & ASSOCIATES P.C.

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